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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LAURIE COLLINS, ) Case No. LA CV 15-2893 JCG  
Plaintiff, ) **MEMORANDUM OPINION AND**  
v. ) **ORDER**  
CAROLYN W. COLVIN, )  
COMMISSIONER OF SOCIAL )  
SECURITY, )  
Defendant. )  
\_\_\_\_\_  
)

Laurie Collins (“Plaintiff”) challenges the Social Security Commissioner’s decision denying her application for disability benefits. Specifically, Plaintiff contends that the Administrative Law Judge (“ALJ”) improperly assessed the psychological opinions of (1) consultative examining physician Dr. Norma Aguilar, and (2) non-examining medical expert Dr. John F. Simonds. (*See* Joint Stip. at 3-10). The Court addresses Plaintiff’s contentions below, and finds that reversal is not warranted.

As a rule, if an ALJ wishes to disregard the opinion of a treating or examining physician, “he or she must make findings setting forth specific, legitimate reasons for doing so that are based on substantial evidence in the record.” *Murray v. Heckler*, 722 F.2d 499, 502 (9th Cir. 1983); *accord Carmickle v. Comm’r, Soc. Sec. Admin.*, 533

1 F.3d 1155, 1164 (9th Cir. 2008). An ALJ is required only to “consider” a medical  
 2 expert who neither examined nor treated a claimant. *Beason v. Colvin*, 611 F. App’x  
 3 905, 906 (9th Cir. 2015.).

4       A.     The ALJ Properly Assessed Dr. Aguilar’s Opinion

5       Here, the ALJ properly assigned “less weight” to Dr. Aguilar’s opinion that  
 6 Plaintiff is moderately limited in her ability to respond to (1) changes in a routine work  
 7 setting, and (2) work pressure in a usual job setting, for three reasons. (AR at 31, 789.)

8       First, the moderate limitations were not supported by the overall record. (AR at  
 9 30); *see Batson v. Comm’r Soc. Sec. Admin.*, 359 F.3d 1190, 1197 (9th Cir. 2004) (“[I]t  
 10 was permissible for the ALJ to give [medical opinion] minimal evidentiary weight, in  
 11 light of the objective medical evidence and the opinions and observations of other  
 12 doctors.”); *Kennelly v. Astrue*, 313 F. App’x 977, 978-79 (9th Cir. 2009) (ALJ properly  
 13 discounted physician recommendations that were inconsistent with treatment notes).  
 14 For example, (1) Plaintiff voluntarily sought emergency psychiatric evaluations simply  
 15 to prove to her husband that she is not “crazy”; (2) treating psychologist notes did not  
 16 provide detailed descriptions of symptoms, progress, mental status, or assessment of  
 17 Plaintiff’s mental health; and (3) after a February 2012 psychosocial assessment  
 18 showing primarily marital and relationship problems, there was an absence of  
 19 treatment until April 2013.<sup>1</sup> (*Id.* at 30-31, 42, 45, 162, 165, 186, 432, 434, 436, 441-  
 20 443, 450-51, 476, 478-79, 514, 530, 663, 665, 682, 686, 689, 722-29, 733-34, 736,  
 21 740, 743, 749-50, 794, 801, 804-05, 832, 847, 853, 858.)

22       Second, Plaintiff’s treatment primarily consisted of counseling and therapy  
 23 sessions, and Plaintiff was able to manage her symptoms without psychotropic  
 24 medications.<sup>2</sup> (AR at 31-32, 162-63, 219, 224, 332, 341-42, 371, 375, 391, 409, 432-

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 26       <sup>1</sup>       In addition to this gap noted by the ALJ, Plaintiff also had an earlier, year-long gap in  
 27 treatment. (AR at 845.)

28       <sup>2</sup>       Plaintiff notes that she took Ativan, a drug which can be used to treat anxiety. (Joint Stip.  
 29 at 9.) However, the record shows she was prescribed that drug to treat muscle spasms on an  
 30 as-needed basis. (AR at 341-42, 558-59); *see Carrelli v. Comm’r Soc. Sec.*, 390 F. App’x 429, 436

1 34, 473, 493, 503, 686, 747, 749, 824, 867); *see Warre v. Comm'r of Soc. Sec. Admin.*,  
 2 439 F.3d 1001, 1006 (9th Cir. 2006) (impairments that can be controlled effectively  
 3 are not disabling for the purpose of determining eligibility for Social Security  
 4 benefits); *Crane v. Shalala*, 76 F.3d 251, 254 (9th Cir. 1996) (ALJ properly discounted  
 5 medical testimony based on claimant's response to treatment for depression and  
 6 anxiety).

7       Third, Plaintiff was able to perform activities of daily living – including  
 8 activities acknowledged in Dr. Aguilar's own opinion – such as “tak[ing] care of my  
 9 business,” riding the bus, shopping, cooking, exercising, dancing, skating, and fishing.  
 10 (AR at 31-32, 188 (Plaintiff's admission that she can take care of her personal needs,  
 11 and do all physical activities, “but at her own pace”), 311, 689, 787); *see Ghanim v.*  
 12 *Colvin*, 763 F.3d 1154, 1162 (9th Cir. 2014) (inconsistency between physician's  
 13 opinion and claimant's daily activities may justify rejection of opinion); *Holien v.*  
 14 *Colvin*, 2014 WL 4629677, at \*9 (E.D. Wash. Sept. 16, 2014) (ALJ properly relied on  
 15 claimant's daily activities in rejecting opinion – including activities noted in doctor's  
 16 own records – such as ability to manage own finances, go shopping, ride public  
 17 transportation, read, and fish).

18       Thus, the ALJ properly rejected Dr. Aguilar's opinion.

19       B.     The ALJ Properly Assessed Dr. Simonds' Opinion

20       The ALJ also properly considered and assigned “little weight” to Dr. Simonds’  
 21 opinion testimony that Plaintiff was limited to occasional interaction with the public  
 22 and coworkers, for the same valid reasons he discounted Dr. Aguilar's opinion. (AR at  
 23 32, 42-43.)

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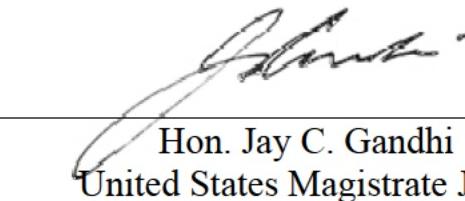
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 25 (6th Cir. 2010) (rejecting claimant's argument that her history of using psychotropic medications was  
 26 evidence of mental impairment because her medications, including Ativan (lorazepam), were  
 27 prescribed for other medical purposes such as sedation, muscle spasms, and sleeping); *Wyatt v.*  
*Colvin*, 2013 WL 3233330, at \*3 (C.D. Cal. June 25, 2013) (describing Ativan as a muscle relaxant).  
 28 Moreover, Plaintiff repeatedly turned down psychotropic medications because she felt she did not  
 need them. (See AR at 32, 665-66, 671, 801, 847, 854, 858-59, 861, 863, 867.)

1        Additionally, there was a lack of evidence that Plaintiff had *significant* problems  
2 interacting with others, except her husband due to marital issues, as Dr. Simonds  
3 seemed to acknowledge in his testimony. (AR at 32, 42 (Dr. Simonds' testimony that  
4 "the big [diagnosis] seems to be a partner/relationship problem" but noting that is not a  
5 listed condition), 46, 434, 436 (Plaintiff explaining to doctor "My husband is the crazy  
6 one, not me."), 441-43, 447, 450, 453, 460, 667-68, 689, 705, 749-50, 801, 805, 812,  
7 842, 864, 866); *Zettelmier v. Astrue*, 387 F. App'x 729, 731-32 (9th Cir. 2010)  
8 (internal inconsistency within doctor's own opinion provided proper basis to discredit  
9 it); *cf. Adkins v. Astrue*, 2011 WL 529756 at \*18 (W.D. Mo. Feb. 4, 2011) (complaint  
10 of disabling psychiatric condition discounted by evidence that showed symptoms were  
11 related to situational stressors, such as marital problems).

12        Thus, the ALJ properly considered Dr. Simonds' opinion.

13        Based on the foregoing, **IT IS ORDERED THAT** judgment shall be entered  
14 **AFFIRMING** the decision of the Commissioner denying benefits.

15  
16 DATED: April 08, 2016



17  
18 Hon. Jay C. Gandhi  
United States Magistrate Judge

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21 **This Memorandum Opinion and Order is not intended for publication. Nor is it**  
22 **intended to be included or submitted to any online service such as**  
23 **Westlaw or Lexis.**

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